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CLEVELAND, OH 44114			ART UNIT	PAPER NUMBER
			2441	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/728,042

Applicant(s)

SMITH ET AL.

Examiner

RANODHI N. SERRAO

Art Unit

2441

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 09 October 2008 have been fully considered but they are not persuasive.
2. Applicant argued,

*Although Arora et al. further discloses the peer-to-peer networks can be designed to interoperate with and be compatible with various Web service standards (see Arora et al. at paragraph 279), applicants' representative respectfully submits that, contrary to assertions made in the office action, the cited section fails to disclose or suggest a **Web-based system that asynchronously processes synchronous requests**. Instead, the cited aspects of Arora et al. disclose a non-Web-based peer-to-peer system that can interface (i.e., interoperate) with Web-based systems utilizing various Web service standards.*

3. In response to applicant's arguments, the recitation *a Web-based system that asynchronously processes synchronous requests* has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951). Furthermore Applicant fails to provide any evidence or citation of where Arora discloses a non-Web-based peer-to-peer system. Indeed the system of Arora is Web-based since in ¶ 279, Arora states, "In one embodiment, the peer-to-peer platform **may be designed** to interoperate and be compatible with various Web service standards including one or more of, but not limited

Art Unit: 2441

to, WSDL, uPnP, RMI, etc." Therefore it is clear that Arora teaches the claimed limitations.

4. Applicant also stated that Arora fails to disclose or suggest the novel features cited in dependent claims, however upon further consideration, the examiner respectfully disagrees and the rejections are therefore maintained.

5. Applicant furthermore remarked,

Although Tripp et al. discloses directing packets comprising search requests and update transactions through a load balancing switch, and all data and program updates are sent between a site host and central server in compressed and encrypted format (see Tripp et al. at col. 9, lines 11-29; col. 17, lines 47-64), applicants' representative respectfully submits that, contrary to assertions made in the office action, the cited sections fail to disclose or suggest the novel features recited in claim 24.

6. In col. 9, lines 11-29, Tripp states, "The central server 202 includes a router 210 that directs packets comprising search requests and update transactions through a **load balancing** switch 212 to an appropriate set of servers 214, 230 and 222. The switch 212 **balances traffic** to all web servers 214 to prevent overloading respective web servers and improve overall performance of the central server 202." And since the Applicant did not point to any specific element of the claim that Tripp fails to teach, Tripp teaches the claimed invention.

7. Applicant also stated that Tripp fails to disclose or suggest the novel features cited in dependent claims, however upon further consideration, the examiner respectfully disagrees and the rejections are therefore maintained.

Art Unit: 2441

8. Applicant's arguments with respect to claim 35 have been considered but are moot in view of the new ground(s) of rejection. The above response applies fully to the rejection of claim 35.
9. The examiner points out that the pending claims must be "given the broadest reasonable interpretation consistent with the specification" [In re Prater, 162 USPQ 541 (CCPA 1969)] and "consistent with the interpretation that those skilled in the art would reach" [In re Cortright, 49 USPQ2d 1464 (Fed. Cir. 1999)]. In conclusion, upon taking the broadest reasonable interpretation of the claims, the cited references teach all of the claimed limitations. And the rejections are maintained. See below.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

11. Claims 1-19, 21-23, and 35 are rejected under 35 U.S.C. 102(e) as being anticipated by Arora et al. (2004/0064568).
12. As per claim 1, Arora et al. teaches a Web-based system that asynchronously processes synchronous requests (§ 218), comprising: an interface component that receives a synchronous request (§ 144-146) and a processing component that parses

the synchronous request across a plurality of Web services for asynchronous processing (§§ 71 and § 279), wherein the processing component aggregates asynchronous results from the plurality of Web services and returns a synchronous result (§§ 74-79).

13. As per claim 2, Arora et al. teaches a system, wherein the processing component parses the synchronous request based on a load balancing technique that distributes portions of the synchronous request to one or more of the plurality of Web services so that request processing is spread across respective Web services based on Web service load (§§ 680).

14. As per claim 3, Arora et al. teaches a system, wherein the load balancing technique dynamically conveys portions of the request from a first Web service to a second Web service with a lesser load, during processing (§§ 93).

15. As per claim 4, Arora et al. teaches a system, wherein the parsed synchronous request is serially and/or concurrently processed by the plurality of Web services (§§ 144).

16. As per claim 5, Arora et al. teaches a system, wherein the synchronous request and result is conveyed across the interface component via at least one of the following protocols: TCP/IP; IPX/SPX; UDP/IP; HTTP; SOAP; or a proprietary protocol (§§ 152).

17. As per claim 6, Arora et al. teaches a system further comprises a queue that is utilized to post the synchronous request for retrieval by one or more Web services that are subscribed to process requests (§§ 625).

18. As per claim 7, Arora et al. teaches a system, wherein the queue is utilized to store information indicative of at least one of a querying client, the synchronous request, the interface component, the processing component, the processing component queue, and a connection type (§ 210).

19. As per claim 8, Arora et al. teaches a system, wherein the information is utilized to at least one of track the request as it is being processed by the Web services, correlate results from the plurality of Web services with the synchronized request, or return a synchronous result (§ 66-69).

20. As per claim 9, Arora et al. teaches a system, wherein the plurality of Web services comprise respective queues that store information indicative of at least one of a synchronous request provider, the synchronous request, the interface component, the processing component, the process component queue, a connectivity type, the Web service, or the Web service queue (§ 624).

21. As per claim 10, Arora et al. teaches a system further comprises an API that facilitates conveyance of the received synchronous request to the processing component and conveyance of the synchronous result (§ 168).

22. As per claim 11, Arora et al. teaches a system further comprises an error-handling component that transmits a message indicating processing of the request has been halted due to a time period lapse (§ 351).

23. As per claim 12, Arora et al. teaches a system further comprises an error-handling component that facilitates re-distributing portions of the request from a Web

service that is unable to process the portion to another Web service where the portion is processed (§ 680).

24. As per claim 13, Arora et al. teaches a system further comprises an intelligence component that facilitates one or more of determining Web service load, parsing the request, distributing the parsed request, correlating results, grouping results, and returning synchronized result (§ 84).

25. As per claim 14, Arora et al. teaches a system, wherein the intelligence component employs at least one of a statistic, a probability, an inference or a classifier (§ 93).

26. As per claim 15, Arora et al. teaches a system that employs dynamic load balancing to asynchronously process synchronous requests (§ 93), comprising: a processing engine that posts synchronous requests in a message box that is accessed by one or more subscribed Web-based services that asynchronously process the synchronous requests (§ 210-214); an aggregating component that correlates asynchronous results with the synchronous request and groups the correlated results (§ 74-79); and an output component that returns the grouped results as a synchronous result (§ 80).

27. As per claim 16, Arora et al. teaches a system further comprises an adapter that accepts a synchronous request from a client and conveys the synchronous request to the processing engine (§ 144-146).

28. As per claim 17, Arora et al. teaches a system, wherein the adapter is one of a pluggable software component or an instance of an object (§ 295).

29. As per claim 18, Arora et al. teaches a system, wherein the synchronous requests is delineated across the one or more subscribed Web-based services, based on a dynamic load balancing technique that distributes portions of the synchronous request to one or more of the subscribed Web-based services, according to Web-based service load (§ 106).
30. As per claim 19, Arora et al. teaches a system is employed within one or more of an intranet, an internet, and the Internet (§ 93).
31. As per claim 21, Arora et al. teaches a system, wherein the processing engine facilitates re-distribution of portions of the synchronous request to one or more Web-based services based on load (§ 106).
32. As per claim 22, Arora et al. teaches a system, wherein the message box is utilized to store information indicative of at least one of a querying client, the synchronous request and the message box (§ 210).
33. As per claim 23, Arora et al. teaches a system, wherein the information is employed by the output component to facilitate returning the synchronous result (§ 80).
34. As per claim 35, Arora et al. teaches a method comprising: receiving a synchronous request from a client via a Web-based system based on at least one of the following protocols: TCP/IP, IPX/SPX, UDP/IP, HTTP, SOAP, or a proprietary protocol (§ 149 and § 279); parsing the synchronous request amongst servers of a server farm for asynchronous processing of the synchronous request (§ 78 and § 128) and , wherein each server of the server farm is accessed via an API and asynchronously processes a portion of the synchronous request based on loading of the server farm (§ 269); at least

one of correlating or grouping asynchronously processed results of each server (§ 71 and § 279); and returning to the client the at least one of correlated or grouped asynchronously processed results as a synchronous result based on the at least one of the following protocols: TCP/IP, IPX/SPX, UDP/IP, HTTP, FTP, SOAP, or a proprietary protocol (§ 74-79).

35. Claims 24-34 are rejected under 35 U.S.C. 102(e) as being anticipated by Tripp et al. (6,516,337).

36. As per claim 24, Tripp et al. teaches a method that facilitates Web-based asynchronous processing of synchronous requests, comprising: accepting a synchronous request; dynamically delineating the synchronous request across process engines based on process engine load (col. 9, lines 11-29); correlating asynchronous results and errors (col. 17, lines 47-64); and returning the correlated results as a synchronous result (col. 24, lines 27-45).

37. As per claim 25, Tripp et al. teaches the method further comprises publishing the synchronous request in a message queue (col. 26, lines 50-64).

38. As per claim 26, Tripp et al. teaches the method further comprises subscribing process engines with the message queue (col. 16, lines 9-37).

39. As per claim 27, Tripp et al. teaches the method further comprises notifying a requester when the request fails to be processed (col. 49, lines 20-42).

40. As per claim 28, Tripp et al. teaches a method for asynchronously processing a synchronous request on a Web service, comprising: transmitting a synchronous

request; distributing the synchronous request across servers within a server farm (col. 9, lines 11-29); aggregating asynchronous results with an associated synchronous request; and returning the aggregated results as a synchronous result (col. 24, lines 27-45).

41. As per claim 29, Tripp et al. teaches the further comprises utilizing request related information to facilitate one or more of tracking the synchronous request through processing, aggregating results, re-distributing portions of the request between servers, and returning a synchronous result to a client (col. 34, lines 49-65).

42. As per claim 30, Tripp et al. teaches the method further comprises distributing the synchronous request in a dynamic manner based on server load (col. 34, line 66-col. 35, line 13).

43. As per claim 31, Tripp et al. teaches the method further comprises serially and/or concurrently processing the synchronous request (col. 9, lines 11-29).

44. As per claim 32, Tripp et al. teaches a data packet transmitted between two or more computer components that facilitates Web-based asynchronous processing of synchronous requests, wherein the asynchronous processing comprises: receiving a synchronous request from a client (col. 9, lines 11-29); posting the synchronous request in a queue (col. 11, line 57-col. 12, line 62); parsing the queued synchronous request across servers within a farm of servers based on a dynamic balancing technique (col. 34, line 66-col. 35, line 13); correlating asynchronous results with the synchronous request; and returning the asynchronous results to the client as a synchronous result (col. 24, lines 27-45).

45. As per claim 33, Tripp et al. teaches a computer readable storage medium comprising at least the following computer executable components: a first component that dynamically distributes a synchronous request via a Web service that utilized load-based asynchronous processing, wherein the synchronous request is distributed across processing engines based on load (col. 9, lines 11-29); a second component that dynamically re-distributes the synchronous request as processing engine load changes (col. 34, lines 49-65); a third component that correlates asynchronous results with the synchronous request; and a fourth component that returns the asynchronous results as a synchronous result (col. 24, lines 27-45).

46. As per claim 34, Tripp et al. teaches a Web-based system that employs dynamic asynchronous processing to service synchronous requests, comprising: means for receiving a synchronous request; means for posting the synchronous request (col. 11, line 57-col. 12, line 62); means for dynamically distributing the synchronous request across processing engines based at least on process engine load (col. 9, lines 11-29); means for correlating asynchronous results with the synchronous request; and means for returning the asynchronous results as a synchronous result (col. 24, lines 27-45).

Claim Rejections - 35 USC § 103

47. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

48. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

49. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Arora et al. as applied to claim 15 above, and further in view of Tripp et al. Arora et al. teaches the mentioned limitations of claim 15 above but fails to teach the system further comprises an error-handling component that provides a notification when the request cannot be serviced. However, Tripp et al. teaches the system further comprises an error-handling component that provides a notification when the request cannot be serviced (see Tripp et al., col. 17, lines 47-64). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Arora et al. to a system further comprises an error-handling component that provides a notification when the request cannot be serviced in order to index catalog remotely stored data that eliminates the need to copy the remote data to a central location and for indexing the world wide web that eliminates the need for spiders to be utilized in updating the index so that an up-to-date index is provided for performing searches, and that allows

conceptual information to be utilized in generating the index to make search results more meaningful (see Tripp et al., col. 4, line 66-col. 5, line 6).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ranodhi Serrao whose telephone number is (571)272-7967. The examiner can normally be reached on 8:00-4:30pm, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on (571)272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2441

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/R. N. S./

Examiner, Art Unit 2441

12/30/2008

/William C. Vaughn, Jr./

Supervisory Patent Examiner, Art Unit 2444